

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2713 of 1998

with

SPECIAL CIVIL APPLICATION No 973 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

=====

1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

RR PATEL

Versus

GSRTC

Appearance:

1. Special Civil Application No. 2713 of 1998
MR IS SUPEHIA for Petitioner
MRS VASAVDATTA BHATT for Respondent No. 1
2. Special Civil ApplicationNo 973 of 1999
MR IS SUPEHIA for Petitioner
MRS VASAVDATTA BHATT for Respondent No. 1

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 16/06/1999

ORAL JUDGEMENT

Rule in Special Civil Application No.2713 of 1998.

Mrs.Vasavdatta Bhatt, learned advocate waives service for the respondent.

1. Since both the petitions challenge the award dated 20.1.1998 passed by the Industrial Tribunal, Ahmedabad, they are heard together and disposed of by this common judgment and order.

2. The Tribunal, by the impugned judgment and award, set aside the order of punishment of stoppage of one and half year increments of the workman with future effect and instead, imposed a punishment of stoppage of two increments without future effect. The Tribunal also directed not to pay the workman the difference of amount of increments upto 31.12.1997.

3. The Corporation has filed the petition challenging the said award by inter alia contending that in view of the proved misconduct, the punishment of stoppage of one and half year increments with future effect was just and proper, while the workman who has filed the petition being Special Civil Application No. 2713 of 1998 has inter alia contended that he is entitled to receive the difference of amount.

4. It was alleged against the workman that while performing his duties as a conductor, on 5.9.1988, he had allowed seven passengers to travel without issuing tickets to them. The Industrial Tribunal, after examining the evidence on record, was of the opinion that even though the charge of permitting seven passengers to travel in the bus without issuing tickets is proved, there is no allegation against the workman about his dishonest intention nor is there any allegation of misappropriation of money. The Tribunal was, therefore, of the view that the workman has performed his duties casually and carelessly and, therefore, the punishment imposed upon him of stoppage of increments with future effect was quite disproportionate.

5. Having heard the learned advocates appearing for the parties, I am of the view that the Tribunal was justified in modifying the impugned order. Considering the proved misconduct, in my opinion, for the act of negligence which is too trivial in nature, the punishment of stoppage of increments with future effect is not

justified in the instant case. However, the Tribunal was not justified in not releasing the amount of increments after setting aside the punishment imposed upon the workman. Once the order of stoppage of increments with future effect was set aside, the workman is entitled to get the increments. Even if the arrears of such increments is not awarded, the increments would be fixed notionally. In this view of the matter, the Special Civil Application NO. 973 of 1999 filed by the Corporation is rejected. Rule discharged.

6. Special Civil Application No. 2713 of 1998 filed by the workman is partly allowed inasmuch as the order of stoppage of two increments without future effect passed by the Tribunal is confirmed. However, the workman would be entitled to have the increments once the order dated 30.11.1988 is set aside. Since the Tribunal has directed that the workman is not entitled to receive the difference of amount upto 31.12.1997, which in my opinion is too harsh considering the proved misconduct, I set aside the said direction and direct the Corporation to calculate the amount of increments upto 31.12.1997 after considering the period of punishment of stoppage of two increments without future effect imposed by the Tribunal upto 31.12.1997 notionally. In other words, the workman will not be paid arrears of increments upto 31.12.1997, but his increment would be fixed upto that date and thereafter whatever increments may accrue to the workman shall be paid to him. Special Civil Application No. 2713 of 1998 is, therefore, allowed accordingly. Rule is made absolute with no order as to costs.

mhs/-